

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (PD) No.942 of 2020 and

CMP No.5057 of 2020

G.Ranjit Kumar, Managing Partner,
AGR Engineering Construction, Civil Contractors,
17/3, Ulagappa Chetty Kollai Street,
Kallakurichi, Villupuram District. Petitioner

Vs.

1. The Executive Engineer, PWD,
Buildings Division (C and M),
Villupuram.
2. The Superintending Engineer, PWD,
Building Circle (C and M), Vellore.
3. The Superintending Engineer, PWD,
Building Circle (C and M), Salem-7.
4. The Chief Engineer (PWD),
Building (C and M) Chennai Region,
Public Works Department,
Chepauk, Chennai-5.
5. Collector of Vilupuram District,
Collectorate Office Complex,
Villupuram.
6. Tahsildar, Taluk Office,
Kallakurichi.

7. Head Master,
Government Higher Secondary School,
Sitheripattu Post,
Sankarapuram Taluk, Villupuram District.

8. Principal Secretary to Government (PWD),
Secretariat, Fort St. George, Chennai-9.

9. Principal Secretary to Government,
School Educational Department,
Secretariat, Chennai-9. ... Respondents

Prayer: This Civil Revision Petition has been filed under Section 227 of the Constitution of India to set aside the orders passed by the Additional District Judge, Fast Track Court, Villupuram dated 12.12.2019 in I.A.No.5 of 2019 in O.S.No.19 of 2018.

For Petitioner : Mr.R.Neelakandan

For Respondents : Mr.Y.T.Aravind Gosh, Gov.Advocate,
(for R1 to R6 and 8

Mr.A.Rajaperumal , Addl.Gov.Pleader,
(for R7 and R9)

ORDER

This revision petition has been filed to set aside the orders passed by the Additional District Judge, Fast Track Court, Villupuram dated 12.12.2019 in I.A.No.5 of 2019 in O.S.No.19 of 2018.

2. The petitioner herein is the plaintiff in the above suit and he has filed the suit for declaration and mandatory injunctions. The defendants have also filed their written statement. Thereafter, the defendants have filed an application in I.A.No.5 of 2019 under Order VIII Rule 1-A and Section 151 of the Code of Civil Procedure to condone the delay in filing the documents mentioned in the petition and to receive the same. According to them, at the time of filing written statement, the certified copy of the documents sought to be received, are not available with them and hence, they filed the petition. The plaintiff has filed his counter affidavit raising objection for reception of documents. After considering the affidavit and counter affidavit, the Trial Court allowed the petition on 12.12.2019. Challenging the above said order, the petitioner has filed the present civil revision petition.

3. Mr.Y.T.Aravind Ganesh, learned Government Advocate takes notice for the respondents 1 to 6 and 8 and Mr.A.Raja Perumal, learned Additional Government Pleader Advocate takes notice for the respondents 7 and 9. respondents.

4. Heard the learned counsel appearing for the petitioner as well as the counsel for the respondents. I have perused the materials on record.

5. The learned counsel appearing for the petitioner contended that there is no pleading about the documents in the written statement, and at the time of cross examination of PW1 also, the defendants have not chosen to file the documents. His further contention is that though the documents are available in the office of the first defendant at the time of filing of written statement, the defendants have not filed the same along with the written statement and further, the defendants have not also stated any bonafide reason for the delay and that the Trial Court has lost its sight in considering the fact that the petition cannot be entertained at the time of examination of DW1 and

allowed the defendants to fill up lacunae on their side by permitting to file the documents at the time of evidence and therefore, he prayed to set aside the orders passed by the Trial Court.

6. The learned Government Advocate submitted that the suit was posted for examination of DW1 and at that time only, they obtained the certified copies of the documents and therefore, the defendants filed an application to receive the documents. He further contended that no prejudice would be caused to the plaintiff if the documents are received, since they are postal receipts and dispatch register of the department.

7. At this juncture, it is relevant to extract Order VIII Rule 1-A of the Code of Civil Procedure.

1-A Duty of defendant to produce documents upon which relief is claimed or relied upon by him.

(1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power,, in support of his defence or claim for set-off or counter-claim, he shall enter such document in a list, and shall, at the same time, deliver the document and a copy thereof, to be filed

with the written statement.

(2) ..

(3) A document which ought to be produced in Court by the defendant under this rule, but is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

8. The Trial court in its order has relied upon the decisions rendered by this court in ***Murugan Vs. Ayyanar in Crl.O.P.No.696 of 018 dated 03.01.2018*** and ***Modeen Thambi (died) and others Vs. Abdul allam and another in CRP No.2413 of 2012 dated 13.09.2019*** and after following the above said decisions, has allowed the application. In the light of the above, this court is also of the view that as per Order VIII Rule 1-A(d), with the leave of the court the defendants can filed the document, which are not filed or listed along with the written statement and the Trial Court has exercised its power judicially and grant permission to mark the documents. Hence, this court do not find any illegality or perversity in the orders passed by the Trial court and it does not warrant any interference by this court.

9. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed. The orders passed by the Trial Court is upheld.

13.03.2020

mst

To

The Additional District Judge,
Fast Track Court, Villupuram.



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D.KRISHNAKUMAR, J.,

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